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7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against,

13 **TRACY LYNN SEMONIK**
14 **853 Spindrift Way**
San Jose, CA 95134

15 **Registered Nurse License No. 702725**

16 Respondent.

Case No. 2012-357

PETITION TO REVOKE PROBATION

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Petition to Revoke Probation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about April 27, 2007, the Board of Registered Nursing issued Registered Nurse
24 License Number 702725 to Tracy Lynn Semonik (Respondent). The Registered Nurse License
25 was in effect at all times relevant to the charges brought herein and will expire on May 31, 2013,
26 unless renewed.

3. In a disciplinary action entitled "In the Matter of Accusation the Against Tracy Lynn Semonik," Case No. 2012-357, the Board of Registered Nursing issued a decision, effective December 26, 2012, in which Respondent's Registered Nurse License was revoked. However, the revocation was stayed and Respondent's Registered Nurse License was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

FIRST CAUSE TO REVOKE PROBATION

(Comply with the Board's Probation Program)

6. At all times after the effective date of Respondent's probation, Condition 2 stated:

“Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent’s compliance with the Board’s Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

“Upon successful completion of probation, Respondent’s license shall be fully restored.”

7. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 2, referenced above. The facts and circumstances regarding this violation are as follows:

1 A. Respondent has failed to comply with any of the terms and conditions of probation.

2 SECOND CAUSE TO REVOKE PROBATION

3 (Report in Person)

4 8. At all times after the effective date of Respondent's probation, Condition 3 stated:

5 "Respondent, during the period of probation, shall appear in person at interviews/meetings
6 as directed by the Board or its designated representatives."

7 9. Respondent's probation is subject to revocation because she failed to comply with
8 Probation Condition 3, referenced above. The facts and circumstances regarding this violation
9 are as follows:

10 A. Respondent was scheduled to appear at the Board of Registered Nursing offices on
11 January 23, 2013 at 9:00 a.m. She failed to appear for the appointment and failed to call or
12 reschedule.

13 THIRD CAUSE TO REVOKE PROBATION

14 (Submit Written Reports)

15 10. At all times after the effective date of Respondent's probation, Condition 5 stated:

16 "Respondent, during the period of probation, shall submit or cause to be submitted such
17 written reports/declarations and verification of actions under penalty of perjury, as required by the
18 Board. These reports/declarations shall contain statements relative to Respondent's compliance
19 with all the conditions of the Board's Probation Program. Respondent shall immediately execute
20 all release of information forms as may be required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state
22 and territory in which she has a registered nurse license."

23 11. Respondent's probation is subject to revocation because she failed to comply with
24 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
25 are as follows:

26 A. Respondent failed to submit written reports for the following: Physical Health
27 Examination, Mental Health Examination, On-Going Therapy due by February 9, 2013 and
28 Firstlab Registration due by December 26, 2012.

1 FOURTH CAUSE TO REVOKE PROBATION

2 (Physical Examination)

3 12. At all times after the effective date of Respondent's probation, Condition 14 stated:

4 "Within 45 days of the effective date of this Decision, Respondent, at her expense, shall
5 have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board
6 before the assessment is performed, submit an assessment of the Respondent's physical condition
7 and capability to perform the duties of a registered nurse. Such an assessment shall be submitted
8 in a format acceptable to the Board. If medically determined, a recommended treatment program
9 will be instituted and followed by the Respondent with the physician, nurse practitioner, or
10 physician assistant providing written reports to the Board on forms provided by the Board.
11 If Respondent is determined to be unable to practice safely as a registered nurse, the licensed
12 physician, nurse practitioner, or physician assistant making this determination shall immediately
13 notify the Board and Respondent by telephone, and the Board shall request that the Attorney
14 General's office prepare an accusation or petition to revoke probation. Respondent shall
15 immediately cease practice and shall not resume practice until notified by the Board. During this
16 period of suspension, Respondent shall not engage in any practice for which a license issued by
17 the Board is required until the Board has notified Respondent that a medical determination
18 permits Respondent to resume practice. This period of suspension will not apply to the reduction
19 of this probationary time period.

20 "If Respondent fails to have the above assessment submitted to the Board within the
21 45-day requirement, Respondent shall immediately cease practice and shall not resume practice
22 until notified by the Board. This period of suspension will not apply to the reduction of this
23 probationary time period. The Board may waive or postpone this suspension only if significant,
24 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
25 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
26 Only one such waiver or extension may be permitted."
27
28

1 13. Respondent's probation is subject to revocation because she failed to comply with
2 Probation Condition 14, referenced above. The facts and circumstances regarding this violation
3 are as follows:

4 A. Respondent failed to submit proof of a physical examination by the due date of
5 February 9, 2013.

6 FIFTH CAUSE TO REVOKE PROBATION

7 (Participate in Treatment/Rehabilitation Program for Chemical Dependence)

8 14. At all times after the effective date of Respondent's probation, Condition 15 stated:

9 "Respondent, at her expense, shall successfully complete during the probationary
10 period or shall have successfully completed prior to commencement of probation a Board-
11 approved treatment/rehabilitation program of at least six months duration. As required, reports
12 shall be submitted by the program on forms provided by the Board. If Respondent has not
13 completed a Board-approved treatment/rehabilitation program prior to commencement of
14 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
15 a program. If a program is not successfully completed within the first nine months of probation,
16 the Board shall consider Respondent in violation of probation.

17 "Based on Board recommendation, each week Respondent shall be required to attend at
18 least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
19 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by
20 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent
21 shall be added. Respondent shall submit dated and signed documentation confirming such
22 attendance to the Board during the entire period of probation. Respondent shall continue with the
23 recovery plan recommended by the treatment/rehabilitation program or a licensed mental health
24 examiner and/or other ongoing recovery groups."

25 15. Respondent's probation is subject to revocation because she failed to comply with
26 Probation Condition 15, referenced above. The facts and circumstances regarding this violation
27 are as follows:
28

1 A. Respondent failed to provide proof of enrollment in a 6 month treatment/
2 rehabilitation program for chemical dependency by the due date of February 9, 2013.

3 SIXTH CAUSE TO REVOKE PROBATION

4 (Submit to Tests and Samples)

5 16. At all times after the effective date of Respondent's probation, Condition 17 stated:

6 "Respondent, at her expense, shall participate in a random, biological fluid testing or
7 a drug screening program which the Board approves. The length of time and frequency will be
8 subject to approval by the Board. Respondent is responsible for keeping the Board informed of
9 Respondent's current telephone number at all times. Respondent shall also ensure that messages
10 may be left at the telephone number when she is not available and ensure that reports are
11 submitted directly by the testing agency to the Board, as directed. Any confirmed positive
12 finding shall be reported immediately to the Board by the program and Respondent shall be
13 considered in violation of probation.

14 "In addition, Respondent, at any time during the period of probation, shall fully cooperate
15 with the Board or any of its representatives, and shall, when requested, submit to such tests and
16 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
17 hypnotics, dangerous drugs, or other controlled substances.

18 "If Respondent has a positive drug screen for any substance not legally authorized and not
19 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
20 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
21 practice pending the final decision on the petition to revoke probation or the accusation. This
22 period of suspension will not apply to the reduction of this probationary time period.

23 "If Respondent fails to participate in a random, biological fluid testing or drug screening
24 program within the specified time frame, Respondent shall immediately cease practice and shall
25 not resume practice until notified by the Board. After taking into account documented evidence
26 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
27 suspend Respondent from practice pending the final decision on the petition to revoke probation
28 or the accusation. This period of suspension will not apply to the reduction of this probationary

1 time period.”

2 17. Respondent’s probation is subject to revocation because she failed to comply with
3 Probation Condition 17, referenced above. The facts and circumstances regarding this violation
4 are as follows:

5 A. Respondent failed to submit proof of registration with Firstlab and failed to
6 participate in tests and samples by the due date of December 26, 2012.

7 SEVENTH CAUSE TO REVOKE PROBATION

8 (Mental Health Examination)

9 18. At all times after the effective date of Respondent’s probation, Condition 18 stated:

10 “Respondent shall, within 45 days of the effective date of this Decision, have a mental
11 health examination including psychological testing as appropriate to determine her capability to
12 perform the duties of a registered nurse. The examination will be performed by a psychiatrist,
13 psychologist or other licensed mental health practitioner approved by the Board. The examining
14 mental health practitioner will submit a written report of that assessment and recommendations to
15 the Board. All costs are the responsibility of Respondent. Recommendations for treatment,
16 therapy or counseling made as a result of the mental health examination will be instituted and
17 followed by Respondent.

18 “If Respondent is determined to be unable to practice safely as a registered nurse, the
19 licensed mental health care practitioner making this determination shall immediately notify the
20 Board and Respondent by telephone, and the Board shall request that the Attorney General’s
21 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
22 practice and may not resume practice until notified by the Board. During this period of
23 suspension, Respondent shall not engage in any practice for which a license issued by the Board
24 is required, until the Board has notified Respondent that a mental health determination permits
25 Respondent to resume practice. This period of suspension will not apply to the reduction of this
26 probationary time period.

27 “If Respondent fails to have the above assessment submitted to the Board within the
28 45-day requirement, Respondent shall immediately cease practice and shall not resume practice

1 until notified by the Board. This period of suspension will not apply to the reduction of this
2 probationary time period. The Board may waive or postpone this suspension only if significant,
3 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
4 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
5 Only one such waiver or extension may be permitted.”

6 19. Respondent’s probation is subject to revocation because she failed to comply with
7 Probation Condition 18, referenced above. The facts and circumstances regarding this violation
8 are as follows:

9 A. Respondent failed to submit proof of a mental health examination by the due date of
10 February 9, 2013.

11 EIGHTH CAUSE TO REVOKE PROBATION

12 (Therapy or Counseling Program)

13 20. At all times after the effective date of Respondent’s probation, Condition 19 stated:

14 “Respondent, at her expense, shall participate in an on-going counseling program until such
15 time as the Board releases her from this requirement and only upon the recommendation of the
16 counselor. Written progress reports from the counselor will be required at various intervals.”

17 21. Respondent’s probation is subject to revocation because she failed to comply with
18 Probation Condition 19, referenced above. The facts and circumstances regarding this violation
19 are as follows:

20 A. Respondent failed to submit proof of a therapy or counseling program by the due date
21 of February 9, 2013.

22 PRAYER

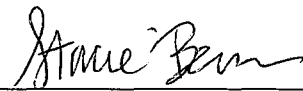
23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking the probation that was granted by the Board of Registered Nursing in Case
26 No. 2012-357 and imposing the disciplinary order that was stayed thereby revoking Registered
27 Nurse License No. 702725 issued to Tracy Lynn Semonik;

2. Revoking or suspending Registered Nurse License No. 702725, issued to Tracy Lynn Semonik;

3. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 9, 2013

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2012-357

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TRACY LYNN SEMONIK

853 Spindrift Way

San Jose, CA 95134

Registered Nurse License No. 702725

Respondent

Case No. 2012-357

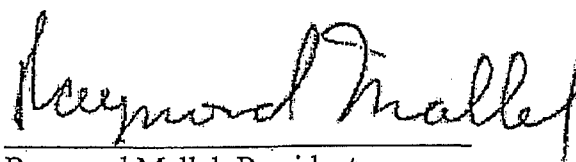
OAH No. 2012010046

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 26, 2012.**

IT IS SO ORDERED **November 26, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON

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Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2012-357

11 **TRACY LYNN SEMONIK**
12 **853 Spindrift Way**
13 **San Jose, CA 95134**

OAH No. 2012010046

14 **Registered Nursing License No. 702725**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Accusation.

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
24 Board of Registered Nursing. She brought this action solely in her official capacity and is
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
26 Char Sachson, Deputy Attorney General.

27 2. Respondent Tracy Lynn Semonik (Respondent) is representing herself in this
28 proceeding and has chosen not to exercise her right to be represented by counsel.

1 3. On or about April 27, 2007, the Board of Registered Nursing issued Registered
2 Nursing License No. 702725 to Tracy Lynn Semonik (Respondent). The Registered Nursing
3 License was in full force and effect at all times relevant to the charges brought in Accusation No.
4 2012-357 and will expire on May 31, 2013, unless renewed.

5 JURISDICTION

6 4. Accusation No. 2012-357 was filed before the Board of Registered Nursing (Board),
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and all other statutorily required documents were properly served on Respondent on December 9,
9 2011. Respondent timely filed her Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 2012-357 is attached as exhibit A and incorporated herein
11 by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 2012-357. Respondent has also carefully read, and understands the effects of this
15 Stipulated Settlement and Disciplinary Order.

16 7. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
18 her own expense; the right to confront and cross-examine the witnesses against her; the right to
19 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
20 compel the attendance of witnesses and the production of documents; the right to reconsideration
21 and court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 9. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 2012-357.

10. Respondent agrees that her Registered Nursing License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Tracy Lynn Semonik has never been the subject of any disciplinary action. She is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Registered Nursing License No. 702725 issued to
6 Respondent Tracy Lynn Semonik (Respondent) is revoked. However, the revocation is stayed
7 and Respondent is placed on probation for three (3) years on the following terms and conditions.

8 **Severability Clause.** Each condition of probation contained herein is a separate and
9 distinct condition. If any condition of this Order, or any application thereof, is declared
10 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
11 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
12 and enforceable to the fullest extent permitted by law.

13 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
14 detailed account of any and all violations of law shall be reported by Respondent to the Board in
15 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
16 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
17 45 days of the effective date of the decision, unless previously submitted as part of the licensure
18 application process.

19 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
20 the conditions of the Probation Program established by the Board and cooperate with
21 representatives of the Board in its monitoring and investigation of the Respondent's compliance
22 with the Board's Probation Program. Respondent shall inform the Board in writing within no
23 more than 15 days of any address change and shall at all times maintain an active, current license
24 status with the Board, including during any period of suspension.

25 Upon successful completion of probation, Respondent's license shall be fully restored.

26 3. **Report in Person.** Respondent, during the period of probation, shall appear in
27 person at interviews/meetings as directed by the Board or its designated representatives.

28 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or

1 practice as a registered nurse outside of California shall not apply toward a reduction of this
2 probation time period. Respondent's probation is tolled; if and when she resides outside of
3 California. Respondent must provide written notice to the Board within 15 days of any change of
4 residency or practice outside the state; and within 30 days prior to re-establishing residency or
5 returning to practice in this state.

6 Respondent shall provide a list of all states and territories where she has ever been licensed
7 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
8 information regarding the status of each license and any changes in such license status during the
9 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
10 license during the term of probation.

11 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
12 or cause to be submitted such written reports/declarations and verification of actions under
13 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
14 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
15 Respondent shall immediately execute all release of information forms as may be required by the
16 Board or its representatives.

17 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
18 state and territory in which she has a registered nurse license.

19 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
20 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
21 6 consecutive months or as determined by the Board.

22 For purposes of compliance with the section, "engage in the practice of registered nursing"
23 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
24 non-direct patient care position that requires licensure as a registered nurse.

25 The Board may require that advanced practice nurses engage in advanced practice nursing
26 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

27 If Respondent has not complied with this condition during the probationary term, and
28 Respondent has presented sufficient documentation of her good faith efforts to comply with this

condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient

1 care unit or in any other work setting at least half the hours Respondent works.

2 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
3 person communication with Respondent at least twice during each shift worked.

4 (d) Home Health Care - If Respondent is approved to work in the home health care
5 setting, the individual providing supervision and/or collaboration shall have person-to-person
6 communication with Respondent as required by the Board each work day. Respondent shall
7 maintain telephone or other telecommunication contact with the individual providing supervision
8 and/or collaboration as required by the Board during each work day. The individual providing
9 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
10 patients' homes visited by Respondent with or without Respondent present.

11 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
12 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
13 or for an in-house nursing pool.

14 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
15 registered nursing supervision and other protections for home visits have been approved by the
16 Board. Respondent shall not work in any other registered nursing occupation where home visits
17 are required.

18 Respondent shall not work in any health care setting as a supervisor of registered nurses.
19 The Board may additionally restrict Respondent from supervising licensed vocational nurses
20 and/or unlicensed assistive personnel on a case-by-case basis.

21 Respondent shall not work as a faculty member in an approved school of nursing or as an
22 instructor in a Board approved continuing education program.

23 Respondent shall work only on a regularly assigned, identified and predetermined
24 worksite(s) and shall not work in a float capacity.

25 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
26 request documentation to determine whether there should be restrictions on the hours of work.

27 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
28 successfully complete a course(s) relevant to the practice of registered nursing no later than six

1 months prior to the end of her probationary term.

2 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
3 Respondent shall submit to the Board the original transcripts or certificates of completion for the
4 above required course(s). The Board shall return the original documents to Respondent after
5 photocopying them for its records.

6 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its
7 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
8 amount of \$5,292.12. Respondent shall be permitted to pay these costs in a payment plan
9 approved by the Board, with payments to be completed no later than three months prior to the end
10 of the probation term.

11 If Respondent has not complied with this condition during the probationary term, and
12 Respondent has presented sufficient documentation of her good faith efforts to comply with this
13 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
14 extension of Respondent's probation period up to one year without further hearing in order to
15 comply with this condition. During the one year extension, all original conditions of probation
16 will apply.

17 **12. Violation of Probation.** If Respondent violates the conditions of her probation, the
18 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
19 and impose the stayed discipline (revocation/suspension) of Respondent's license.

20 If during the period of probation, an accusation or petition to revoke probation has been
21 filed against Respondent's license or the Attorney General's Office has been requested to prepare
22 an accusation or petition to revoke probation against Respondent's license, the probationary
23 period shall automatically be extended and shall not expire until the accusation or petition has
24 been acted upon by the Board.

25 **13. License Surrender.** During Respondent's term of probation, if she ceases practicing
26 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
27 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
28 Respondent's request and to exercise its discretion whether to grant the request, or to take any

1 other action deemed appropriate and reasonable under the circumstances, without further hearing.
2 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
3 subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and shall
5 become a part of Respondent's license history with the Board. A registered nurse whose license
6 has been surrendered may petition the Board for reinstatement no sooner than the following
7 minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any reason other
9 than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
12 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
13 assistant, who is approved by the Board before the assessment is performed, submit an
14 assessment of the Respondent's physical condition and capability to perform the duties of a
15 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
16 medically determined, a recommended treatment program will be instituted and followed by the
17 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
18 to the Board on forms provided by the Board.

19 If Respondent is determined to be unable to practice safely as a registered nurse, the
20 licensed physician, nurse practitioner, or physician assistant making this determination shall
21 immediately notify the Board and Respondent by telephone, and the Board shall request that the
22 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
23 immediately cease practice and shall not resume practice until notified by the Board. During this
24 period of suspension, Respondent shall not engage in any practice for which a license issued by
25 the Board is required until the Board has notified Respondent that a medical determination
26 permits Respondent to resume practice. This period of suspension will not apply to the reduction
27 of this probationary time period.

28 If Respondent fails to have the above assessment submitted to the Board within the 45-day

1 requirement, Respondent shall immediately cease practice and shall not resume practice until
2 notified by the Board. This period of suspension will not apply to the reduction of this
3 probationary time period. The Board may waive or postpone this suspension only if significant,
4 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
5 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
6 Only one such waiver or extension may be permitted.

7 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

8 Respondent, at her expense, shall successfully complete during the probationary period or shall
9 have successfully completed prior to commencement of probation a Board-approved
10 treatment/rehabilitation program of at least six months duration. As required, reports shall be
11 submitted by the program on forms provided by the Board. If Respondent has not completed a
12 Board-approved treatment/rehabilitation program prior to commencement of probation,
13 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
14 If a program is not successfully completed within the first nine months of probation, the Board
15 shall consider Respondent in violation of probation.

16 Based on Board recommendation, each week Respondent shall be required to attend at least
17 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
18 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
19 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
20 added. Respondent shall submit dated and signed documentation confirming such attendance to
21 the Board during the entire period of probation. Respondent shall continue with the recovery plan
22 recommended by the treatment/rehabilitation program or a licensed mental health examiner
23 and/or other ongoing recovery groups.

24 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
25 completely abstain from the possession, injection or consumption by any route of all controlled
26 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
27 are ordered by a health care professional legally authorized to do so as part of documented
28 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)

1 days, by the prescribing health professional, a report identifying the medication, dosage, the date
2 the medication was prescribed, the Respondent's prognosis, the date the medication will no
3 longer be required, and the effect on the recovery plan, if appropriate.

4 Respondent shall identify for the Board a single physician, nurse practitioner or physician
5 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
6 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
7 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
8 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
9 considered addictive have been prescribed, the report shall identify a program for the time limited
10 use of any such substances.

11 The Board may require the single coordinating physician, nurse practitioner, or physician
12 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
13 medicine.

14 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
15 random, biological fluid testing or a drug screening program which the Board approves. The
16 length of time and frequency will be subject to approval by the Board. Respondent is responsible
17 for keeping the Board informed of Respondent's current telephone number at all times.
18 Respondent shall also ensure that messages may be left at the telephone number when she is not
19 available and ensure that reports are submitted directly by the testing agency to the Board, as
20 directed. Any confirmed positive finding shall be reported immediately to the Board by the
21 program and Respondent shall be considered in violation of probation.

22 In addition, Respondent, at any time during the period of probation, shall fully cooperate
23 with the Board or any of its representatives, and shall, when requested, submit to such tests and
24 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
25 hypnotics, dangerous drugs, or other controlled substances.

26 If Respondent has a positive drug screen for any substance not legally authorized and not
27 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
28 files a petition to revoke probation or an accusation, the Board may suspend Respondent from

practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

18. **Mental Health Examination.** Respondent shall, within 45 days of the effective date of this Decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by Respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until

1 notified by the Board. This period of suspension will not apply to the reduction of this
2 probationary time period. The Board may waive or postpone this suspension only if significant,
3 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
4 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
5 Only one such waiver or extension may be permitted.

6 19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in
7 an on-going counseling program until such time as the Board releases her from this requirement
8 and only upon the recommendation of the counselor. Written progress reports from the counselor
9 will be required at various intervals.

10 ACCEPTANCE

11 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
12 stipulation and the effect it will have on my Registered Nursing License. I enter into this
13 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
14 to be bound by the Decision and Order of the Board of Registered Nursing.

15
16 DATED: 6/26/2012

Tracy Lynn Semonik
17 TRACY LYNN SEMONIK
18 Respondent

19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

1 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
2 Affairs.

3 Dated: 6/26/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

8 

CHAR SACKSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-357

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Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-357**

12 **TRACY LYNN SEMONIK**
13 **853 Spindrift Way**
San Jose, CA 95134

ACCUSATION

14 **Registered Nursing License No. 702725**

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about April 27, 2007, the Board of Registered Nursing issued Registered
23 Nursing License Number 702725 to Tracy Lynn Semonik (Respondent). The Registered Nursing
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on May 31, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
3 ~~that the Board may discipline any licensee, including a licensee holding a temporary or an~~
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct . . ."

10 6. Section 2762 of the Code states:

11 "In addition to other acts constituting unprofessional conduct within the meaning of this
12 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
13 chapter to do any of the following:

14 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
15 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
16 administer to another, any controlled substance as defined in Division 10 (commencing with
17 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
18 defined in Section 4022.

19 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
20 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
21 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
22 himself or herself, any other person, or the public or to the extent that such use impairs his or her
23 ability to conduct with safety to the public the practice authorized by his or her license.

24 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
25 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
26 or the possession of, or falsification of a record pertaining to, the substances described in
27 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
28 thereof.

1 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
2 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
3 ~~section, in which event the court order of commitment or confinement is prima facie evidence of~~
4 such commitment or confinement.

5 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
6 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
7 section."

8 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license.

11 8. Section 118, subdivision (b), of the Code provides that the expiration of a license
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
13 within which the license may be renewed, restored, reissued or reinstated.

14 COST RECOVERY

15 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 CAUSE FOR DISCIPLINE

20 (UNPROFESSIONAL CONDUCT)

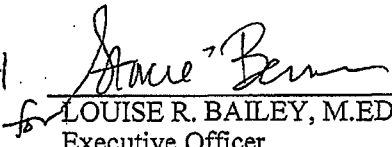
21 10. Respondent is subject to disciplinary action under sections 2761(a), and/or 2762(b) in
22 that she acted unprofessionally and/or used controlled substances in a manner dangerous to
23 herself or others. In December, 2010, Respondent began experiencing mental health problems.
24 On or about January 9, 2011, Respondent was scheduled to work at Mills Peninsula Hospital at
25 11:00 a.m. She arrived three hours late at 2:00 p.m., disheveled and with her clothing inside-out.
26 On that date, Respondent tested positive for benzodiazepines, opiates, and THC (a marijuana
27 metabolite). She was terminated from Mills Peninsula Hospital. On or about June 6, 2011,
28 Respondent again tested positive for marijuana metabolites.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nursing License Number 702725, issued to Tracy Lynn Semonik;
2. Ordering Tracy Lynn Semonik to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: December 09, 2011


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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